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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,071	03/30/2007	James E. Usowicz	W-361-02	9804
43840 7590 06/24/2008 WATERS INVESTMENTS LIMITED C/O WATERS CORPORATION 34 MAPLE STREET - LG MILFORD, MA 01757				
EXAMINER				
ROGERS, DAVID A				
ART UNIT		PAPER NUMBER		
2856				
MAIL DATE		DELIVERY MODE		
06/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,071

Applicant(s)

USOWICZ ET AL.

Examiner

DAVID A. ROGERS

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-68 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 C.F.R. 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-10¹, 32-40, 42, and 56-63, drawn to a controller for a fluid system condition-sensing device that increases or decreases a fluid input rate.

Group II, claims 11-31, 64, and 65, drawn to a fluid system having positioning means for moving between a source of gas and a source of liquid.

Group III, claim 41, drawn to a method for moving fluid comprising a controller that prevents vaporization.

Group IV, claims 43, 45-55 and 66-68, drawn to a method for moving fluid including determining a volume of a conduit by drawing an aliquot of gas.

Group V, claim 44, drawn to a method for moving fluid including determining a volume of a conduit by drawing aliquots of liquid.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

¹ Claim 6 is written to depend on itself. Applicant is requested to correct this dependency in response to this office action.

US 5,242,586 to Ransohoff discloses a liquid chromatograph fluid system (10) comprising a fluid condition sensor (24), a controller (26), and fluid movement means (reference item 12). The fluid movement means is a pump that injects fluid into the chromatograph column (16). The controller receives and outputs signals for based on the condition sensor. The condition sensor can be an optical sensor which would require a light emitter and light receiver. The sensor can be used to detect a bubble in a fluid. The controller operates to control the fluid movement means. When no bubble is detected the controller operates to cause the fluid movement means to deliver fluid at a rate. When a bubble is detected the controller operates to stop the fluid movement means so that the bubble does not pass through the detector. The sensor, being an optical sensor, would also require that the conduit in which the bubble is to be detected be transparent in order to sense a gas bubble in the conduit.

US 4,939,943 to Strohmeier discloses that metering syringes are known components of chromatographs. Using a metering syringe in lieu of a pump is an obvious modification if only small quantities of fluids are to be injected into the chromatograph column.

Group I, the controller, does not require a fluid system having positioning means (Group II); it is not required to be used in a method that prevents vaporization (Group III), a method that determines volume (Group IV and V).

Group II is not required to be used in a method that prevents vaporization (Group III) or methods that determine volumes (Groups IV and V).

Group III is not required to be used in a method that determines volumes (Groups IV and V).

Group IV is not required to be used in a method of drawing aliquots of liquids (Group V).

2. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 C.F.R. 1.143) and (ii) identification of the claims encompassing the elected invention. The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

3. Applicant is additionally reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. 1.48(b) and by the fee required under 37 C.F.R. 1.17(i).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID A. ROGERS whose telephone number is (571)272-2205. The examiner can normally be reached on Monday - Friday (0730 -

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1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A. Rogers/
Primary Examiner, Art Unit 2856